

MINUTES
Town of Crested Butte
Regular Town Council Meeting
Monday, December 1, 2014
Council Chambers, Crested Butte Town Hall

Mayor Huckstep called the meeting to order at 7:06PM.

Council Members Present: Jim Schmidt, Glenn Michel, Roland Mason, Shaun Matusiewicz, Skip Berkshire, and Chris Ladoulis

Staff Present: Town Manager Todd Crossett and Town Clerk Lynelle Stanford

Town Planner Michael Yerman, Finance Director Lois Rozman, Building and Zoning Director Bob Gillie, Public Works Director Rodney Due, and Parks and Recreation Director Janna Hansen (all for part of the meeting)

APPROVAL OF AGENDA

There was an addition to the agenda, which was to swear in newly appointed council member, Walker "Skip" Berkshire.

Schmidt moved and Michel seconded a motion to approve the agenda as amended. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

Mayor Huckstep swore in Councilman Berkshire with the oath of office.

Town Attorney, John Belkin, requested a clarification on the record stemming from something he said during the Work Session on Annexations in Crested Butte - 101. Belkin stated that Public Works Director, Rodney Due, and Crested Butte News Editor, Mark Reaman, had just shared with Belkin during the break after the work session that they thought they heard Belkin state in the work session that he had not been the Town Attorney at the time of the previous Foothills annexation petition in 2008-09. Town Attorney Belkin asked to be included, in the record, that this was incorrect and wanted clarified for the record that what he said, or meant to say, was that he wasn't here for the prior annexation proposal(s); meaning, prior to the previous Foothills annexation petition in 2008-09 when Belkin was the Town Attorney. Attorney Belkin stated that his answer was in response to Councilman Schmidt who had asked why in previous annexations such as the Verzuh annexation, the Town Council was able to treat the whole process on the annexation proposal as a legislative matter.

EXECUTIVE SESSION

Schmidt moved and Mason seconded a motion to go into Executive Session for a conference with the Town Attorney for the purpose of receiving legal advice on specific

legal questions under C.R.S. Section 24-6-402(4)(b). A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

Council went into executive session at 7:12PM. Council returned to open meeting at 7:50PM. Mayor Huckstep made the required announcement upon returning to the open meeting.

CONSENT AGENDA

Schmidt moved and Mason seconded a motion to approve the consent agenda. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

PUBLIC COMMENT

Margot Levy – Resident of the Town of Crested Butte

- Thanked the Council for taking public comments.
- Said her comment has to do with the annexation process being legislative versus quasi-judicial. Supported the recommendation the entire process be carried on through a quasi-judicial process.
- Transparency was very important to people, and she said business should be carried on in public meetings.
- Wondered what was the public interest or benefit of ex-parte communication. She wanted to know what issues other members of the public raised.
- Important things go on in the public forum.
- She said there was a whole question of timing. Processes go on for months. During that time period, there could be changes with people who are sitting at the Council table. If there were a change of personnel, conversations that were ex-parte would go away with the person.
- Public record or public forum are known and are on the record.
- Asked the Council to take the quasi-judicial approach.

STAFF UPDATES

Janna Hansen

- Department was struggling to get ice at Big Mine due to temperatures.
- Mentioned the initial community sessions for the Big Mine Master Plan are on December 15 and 16. She is still working on the agenda and timing, but she is hoping to finalize by tomorrow.
- Huckstep asked Hansen if the dasher boards were done at Big Mine. Hansen answered, "Yes."

Michael Yerman

- Hoping to have the grand kick off for the Creative District on January 22.
- Will hold a lottery on December 12 for the property at 818 Teocalli. Said that seven people were qualified to purchase.

Lynelle Stanford

- Mentioned Light Up Night special event being held on December 12.
- Told the Council about the Adopt-a-Family that the staff has organized in past years, and asked the Council members to participate if they desired.

Huckstep mentioned to the Council that Rozman provided an updated sales tax report that showed October sales tax was up 26.9%.

PUBLIC HEARING

1) Transfer of East Side Bistro Liquor License, Located at 435 6th Street, From East Side Bistro LLC to Birds of Paradise LLC.

Huckstep confirmed that proper public notice was given, and the public hearing was then opened. Huckstep said the Council had a staff report from Stanford, and he confirmed there were no changes to the staff report. There were no public comments, and the public hearing was closed.

Schmidt moved and Michel seconded a motion to approve the transfer of a Hotel and Restaurant Liquor License for Birds of Paradise LLC DBA Paradise Café located at 435 6th Street; Crested Butte, Colorado for the reasons stated in the staff report dated November 25, 2014. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

2) Resolution No. 22, Series 2014 – A Resolution to Adopt the Mill Levy for the Town of Crested Butte, Colorado for the Fiscal Year 2015, Beginning the First Day of January 2015 and Ending the Last Day of December 2015.

Huckstep confirmed that proper public notice was given, and the public hearing was opened. Huckstep confirmed there were no changes to Rozman's staff report. There were no public comments. The public hearing was closed.

Mason moved and Ladoulis seconded a motion to approve Resolution No. 22, Series 2014. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

3) Resolution No. 23, Series 2014 – A Resolution Adopting the Budget and Appropriating Sums of Money for the Town of Crested Butte, Colorado for the Fiscal Year Beginning the First Day of January 2015, and Ending the Last Day of December 2015, Estimating the Amount of Money Necessary to be Derived From Revenue Sources, and Setting Forth the Total Estimated Expenditures for Each Fund.

Huckstep opened the public hearing. He confirmed there were no changes to either Hansen's or Rozman's staff reports. There were no public comments.

Schmidt stated he felt strongly they should deduct \$30K from the capital fund balance. He proposed approval of the resolution, but he would like to revisit the topic of deducting

\$30K at the second meeting in January when they can specifically discuss the cut and implications for the future. He said he was looking to take money from the fund balance, (out of the general capital fund) but rather than drawing out tonight, he would like the discussion to be on the agenda the second meeting in January.

Before Schmidt continued, Huckstep closed the public hearing and opened it to Council discussion.

Schmidt said he realized it was a small cut, but for next summer, he thought they ought to take \$30K out of fund balance to take care of flowers and other services and have the long discussion later. He knew cuts had to come in the future. Laoudlis agreed with the basis of Schmidt's comments. He said he felt like it was wrong to cut \$30K. He was not prepared to approve the budget if it meant there would not be bike racks out in time for Bike Week. Huckstep said they could do a budget amendment after the second meeting in January. Rozman added it was not just the \$30K; it was the projects and desires that Town wouldn't be able to take on and build because they couldn't take care of what they already had. She said the discussion was more rooted in policy and procedure. She suggested the Council see what winter might do. Matusiewicz agreed they could pass the budget with \$30K out of reserves. Huckstep said the discussion went well beyond the \$30K. Berkshire saw the value of preserving what Town has and thought it was worth it to take \$30K out of fund balance. Huckstep's concern was that they shuffled the numbers and then didn't have the discussion. Hansen said a significant time constraint was that they needed to place their order for flowers within the next couple of weeks. It was decided to discuss future budget implications the first meeting in January.

Matusiewicz moved and Ladoulis seconded a motion to approve Resolution No. 23, Series 2014 with the addition of \$30K to be deducted from fund balance from the general capital fund. A roll call vote was taken. Berkshire, Matusiewicz, Ladoulis, and Schmidt voted, "Yes." Mason, Huckstep, and Michel voted, "No." **Motion passed.**

4) Ordinance No. 13, Series 2014 - An Ordinance Amending Section 13-1-110 of the Crested Butte Municipal Code by Increasing the System Development Fees, Otherwise Known as "Tap-in Fees", to \$8,000 Per EQR for Water and \$9,500 Per EQR for Sewer; Amending Section 13-1-120 of the Code by Increasing the Rates for Water Use Above the "Base Allotment" to \$3.00 Per 1,000 Gallons for the First 5,000 Gallon Block, \$3.25 Per 1,000 Gallons for the Second 5,000 Gallon Block, \$3.50 Per 1,000 Gallons for the Third 5,000 Gallon Block, \$3.75 Per 1,000 Gallons for the Fourth 5,000 Gallon Block, \$4.25 Per 1,000 Gallons for the Fifth 5,000 Gallon Block and \$5.00 Per 1,000 Gallons Thereafter; Amending Section 13-1-150 of the Code by Increasing Sewer Service Rate to \$33.00 Per Month Per EQR.

The public hearing was opened. Huckstep referred to a staff report from Rozman with a recommendation to approve. There were no public comments, and the public hearing was closed. There was no further Council discussion.

Schmidt moved and Mason seconded a motion to approve Ordinance No. 13, Series 2014. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

5) Ordinance No. 14, Series 2014 – An Ordinance Adopting Changes and Additions to the 2014 Budget and Appropriations Relative to the Affordable Housing and Sales Tax Fund.

The public hearing was opened. Huckstep mentioned a staff report from Rozman with a recommendation to approve, and he confirmed there were no changes to the staff report. There were no public comments, and the public hearing was closed. There was no further Council discussion.

Mason moved and Schmidt seconded a motion to approve Ordinance No. 14, Series 2014. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

6) Ordinance No. 15, Series 2014 – An Ordinance Amending Chapter 6-2 of the Crested Butte Municipal Code Providing for a Temporary Reduction to Certain Portions of the Business and Occupation Licensing Tax for Fiscal and Calendar Year of 2015; and Providing the Automatic Repeal Thereof Effective on the First Day of January, 2015.

The public hearing was opened. Huckstep mentioned the staff report from Rozman with the recommendation to approve. There were no public comments, and the public hearing was closed. There was no further Council discussion.

Schmidt moved and Ladoulis seconded a motion to approve Ordinance No. 15, Series 2014. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

NEW BUSINESS

1) Discussion and Possible Approval of the Crested Butte Avalanche Center Beacon Brush Up Located at Town Park and Special Event Liquor License Located at 419 6th Street on December 7, 2014.

There was a brief discussion surrounding the timing of the submittal of special event applications and when they are presented to Council. Ladoulis wondered what was being done to discourage late applications. Stanford said there was a \$100 late application fee that has not been strictly enforced. However, Crossett said past direction from the Council was for staff to facilitate special events.

Matusiewicz moved and Ladoulis seconded a motion to approve the Crested Butte Avalanche Center Beacon Brush Up special event application and special event liquor permit. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

2) Discussion and Possible Approval of Santa Bingo by Crested Butte Mountain Educational Radio Special Event Permit and Special Event Liquor License Located at 306 Maroon Avenue on December 12, 2014.

Matusiewicz recused himself and left the room because he was involved with the inception of the event.

Schmidt moved and Mason seconded a motion to approve the Santa Bingo special event application and special event liquor permit. A roll call vote was taken with all voting, "Yes." Except Matusiewicz, who did not vote. **Motion passed unanimously.**

3) Discussion and Approval of the 2014/2015 Snow Plan.

Schmidt asked Due if the Snow Plan was any different than last year. Due said it was basically the same. There was a person running the night shift, and one person running the day shift. He said it worked out well, and it saved the Town from hiring one seasonal person. Berkshire said he liked Due's staff report, because it called out specifically that they would plow the bus route. However, he said, in the plan it didn't really spell out the bus route. Berkshire would like to see the explicit statement about the bus route being plowed before the first bus, and he would love to see that in the plan. Michel added, from observing the plows working, they push the snow one way, and he wouldn't want to tie the drivers' hands, because it might not be as efficient. Berkshire countered if it was in the staff report that Due intended to plow the bus route, it should be in the plan. Due said he could make it clearer, related to bus routes and emergency routes. Huckstep suggested a change on the Operations Plan, on the list of priorities, to call out the bus routes specifically. Matusiewicz wondered about the plowing of snow banks and if it would be done one week before Christmas. He said it seemed like it was done two weeks before Christmas in the past. Due said it has always been done one week before the holiday.

Keith Bauer, Director of the Nordic Center, said the plan didn't mention 1st street. He wanted snow to remain on 1st Street for their snow cat to travel. Berkshire added that 1st Street is also a part of the approved skiing perimeter. Matusiewicz said that not scraping 1st Street was not in the snow plan. Due said they always try to allow no more than six inches, which includes 1st Street. He said it was not written out specifically but it was understood. Due said if they took all the streets down to oil, they would leave 1st Street. Michel asked Due if they could still provide essential services to that neighborhood. He wanted to make sure they could uphold the first priority of safety. Due answered, "Yes."

Schmidt moved and Berkshire seconded a motion to approve the Snow Plan with the amendment to the roadway section to specifically call out the bus route. A roll call vote was taken with all voting, "Yes." Except Matusiewicz voted, "No." **Motion passed.**

4) Discussion and Possible Action Regarding Whatever USA Ad Hoc Committee Recommended Allocation and Distribution of Whatever Project Monies.

Michel asked Huckstep what was the characterization of the committee discussions. Huckstep answered, it was very amicable. Crossett said it was important that everyone could walk out with something they felt good about for both towns. He said the committee felt their decision was defensible, practical, and addressed the needs of both communities. Huckstep listed three priority projects: the rec path extension out to 8th Street; \$300,000 for Big Mine Park improvements, which would benefit the Nordic and hockey communities; \$140,000 to Block 79 and 80 infrastructure. Huckstep said with Big Mine, they hoped it would jump start the funding to fulfill the needs. Michel agreed it was a good outcome with all things considered. Matusiewicz said he wanted to wait until the next meeting to take action. He wanted the public to have adequate time. Schmidt said he agreed with Michel, and it was an excellent outcome for the Town of Crested Butte. Bauer, Director of the Nordic Center, wanted to thank the committee. He thought the committee did a great job. He has closely witnessed changes at Big Mine, and the amount of \$300,000 would be great jump-start on funding. With support from the Nordic and hockey communities, he would like to see Big Mine improvements. Schmidt said to also look at this as not just for hockey and Nordic, but it would also benefit the summer events in the building, as it is used more and more. Mason stated the Parks and Rec Master Plan pinpointed Big Mine. He suggested the longer the discussion was drawn out, it could potentially unravel. Ladoulis said they haven't heard from the public. Matusiewicz said there were dozens of letters to the editor suggesting how the money was spent, and he felt they had not received feedback, because people were not aware of it. He further expounded that they were contemplating putting the majority of the funding into a park expansion, and they currently could not pay for the parks. He said it was irresponsible. He felt locker rooms were a good amenity for Town, but a great amenity would be housing for locals. He suggested doing something bigger and better than short-term locker rooms.

Michel moved and Ladoulis seconded a motion to approve the funding recommendations set forth by the committee. A roll call vote was taken with all voting, "Yes", except for Matusiewicz, who voted, "No." **Motion passed.**

5) Presentation by Town Attorney John D. Belkin, and Discussion by Town Council on Legislative and Quasi-judicial Decision Making Processes in Annexation Proceedings.

Belkin said they were trying to figure out how the Council would treat the concept annexation, assuming it moved forward to a formal petition. The two options were legislative and quasi-judicial. He said it was important to know that Gerald Dahl, special counsel, who joined the meeting via conference call, wrote sections of the state statutes on annexations, and he also helped in writing the Town Code.

Dahl said that Crested Butte had a unique code approach that gave the Town of Crested Butte more flexibility compared to other towns. He explained that with a quasi-judicial process, the Council would act like a judge, and most land use matters were handled this way. The consequences were that notice and a public hearing were required, and Council could not pre-judge the application. They could not have ex parte contacts. Quasi-

judicial was different from legislation. Once the application came in, the curtain came down on outside of the public conversations. Dahl said that in Crested Butte, the article on annexation created a special process ahead of time called the concept annexation request. It was a pre-look for annexation purposes only. He said they could have ex parte contacts. The annexation was not quasi-judicial, yet, because the land use plan had not been submitted to trigger the land use process. Once they've given a head nod, they pre-conditioned the annexor, and the code required that accompanying the Town's quasi-judicial land use process, the curtain had to come down on outside contacts. He said there were benefits to having contacts before the land use application was submitted. The later land use plan has to be consistent with the annexation plan, and they couldn't do a bait and switch. He said the Council had a free early look that was legislative in Crested Butte. Huckstep questioned Dahl if he heard correctly that Crested Butte was the only city or town in the state that had a concept plan. Dahl said he has not heard of anyone else doing it, although it was possible. Huckstep said people would want to talk to Council members, and he asked how they allowed access for public comments outside of a public hearing. Dahl explained there was still a way to operate within the rules. When people send letters to Council, they should give the letters to staff. Staff copied the letter and made it part of the record. Council members should not respond to letters. With emails, forward to other Council members, and include in the packets. Dahl said it was the replies that get a person in trouble. Schmidt said that they cut out the transparency if they couldn't talk freely to constituents, staff, and the attorney. He said once the process was quasi-judicial, he didn't know if it was okay to talk to the attorney or town manager. He further said the Council had to take in what came in front of them, and in the strictest interpretation of quasi-judicial, the Council could not have any real ideas. He doesn't want to say to constituents, "I'm sorry we can't talk to you about that, you must come to a meeting." He said it felt like a courtroom and not a council room. Dahl saw it differently. With quasi-judicial, they must bring it to hearing. Quasi-judicial rules did not prohibit Council from talking to staff or the attorney. However, they can't use staff or the attorney as human telephones. Dahl mentioned the easiest rule: when the land use application was stamped "received", it was quasi-judicial. Ladoulis said he understood and appreciated the spirit of quasi-judicial limitations. However, they struggled with it in a small town. They had limited opportunities, and the quasi-judicial process was limiting when looking at the experience of the Council in contributing to that process. He said to respect the community and make the best decisions for Town, that to defer to staff and not let Council take any input during the process, then they wouldn't get the best outcome, no matter what the law said. Dahl said a big part of his practice was how to make that work in a small community and still follow the law. He said there was a lot of room in the system to do just that. He said there was nothing wrong with having additional meetings that were publically noticed. They could take public comment when everyone was present. They could add hearings. They could add submission requirements on the annexors to give a fuller picture of what they wanted to do as part of the annexation concept request. The line they couldn't cross was to encourage private discussion. He advised they tell the person the whole Council needed to see this, please send this to me in an email. Then, don't reply. Tell them to send an email to the town clerk to put it on the public record. He said they needed to send the message: "Yes, I can hear you. Send it to me in an email, and I'll share it." Huckstep asked Dahl how long the

concept review stage really lasted. He answered they could make it last as long as they would like. Belkin added it was not a prescriptive time frame; it was an organic time frame. He said many things could be front-loaded. Dahl said that as long as they were under concept review, they were under legislative rules, and they could take it as far as possible.

Schmidt said when they get to quasi-judicial, it said to the Council they couldn't think of anything new. He wondered if it prohibited the Council from having any new ideas. Dahl answered they have to make sure their decision had a basis in the record. It was not at all uncommon to say yes with conditions and come up with the fifth, as long as it was a condition that could be justified under the code.

Yerman explained the role of town staff expressly acknowledged that Council could go to staff and have what looked like the conversation they couldn't have with the public. He explained the Council could direct the public to go to staff, and staff could make sure it was a matter on public record.

Belkin talked about front-loading being a slippery slope. It was effectively disregarding the process of the filing of the petition. It was saying they did not really like the code sections they had. Dahl said they had a unique process that front end loads to give them a good look at the application. It was also true that they have a code process that the public expected to have meaning. Schmidt asked that at a certain time the Council said they're ready for a formal application. Dahl confirmed it was up to the Council, not the applicant. Yerman said when the Council approved, they would be giving them permission to move forward.

Huckstep confirmed that changing the code now wouldn't apply to an application they have already received. Dahl said they couldn't change the rules on them in the middle. Belkin wondered what they were trying to inoculate against. Huckstep said there was no technical information on the dump, and Dahl's words said they could require that. He said if they wanted to amend the code, they could do that. Huckstep asked if someone wanted a certain piece of information could they ask for it. Belkin said they could ask for whatever they wanted. Schmidt asked about the necessity of a pre-annexation agreement. Dahl said it was a submission requirement of the annexation petition, and it was submitted with the petition. Berkshire wondered why they couldn't have a pre-annexation agreement that was part of the concept phase. Belkin said they were talking about doing a pre-annexation agreement. The dump would still be addressed when they were in concept review. The annexation concept review did not preclude that annexation agreement. Dahl said the pre-annexation agreement would be around things like the time frame they would agree the concept review would take. He reminded the Council they are never required to say yes to an annexation. He said negotiating the whole deal before they have looked at it didn't serve very well. They were trying to have the chicken and egg at the same time. Berkshire said attributes continued today, and before they were up to their necks, they wanted to make sure there was clear understanding of how they would deal with these attributes. He said they needed to define the potential deal

breakers from the very start. Ladoulis agreed if there were non-starters, and the Council felt strongly about an issue, he didn't want them to go down the road.

6) Review, Discussion and Possible Action Regarding Concept Annexation Request By Cypress Foothills LP for the Slate River Addition Annexation, North of Butte Avenue, County of Gunnison.

Cameron Aderhold, Vice-President of Cypress Equities, began by briefly describing the company, including their history and introduction to the property. He went on to describe the property Cypress Equities was proposing to develop. He said they understood that any new annexation must be consistent with the character of Town, and new development in Crested Butte must pay its own way. Aderhold said their proposal for the development was 25% less dense than what was proposed previously. They recognized the delicate balance between maintaining the grid and the natural environment. He wanted to get the Council's input as to what they thought was more important. He said they were aiming to stay consistent with existing zoning classifications. Aderhold addressed the dump and said they had a good idea for the character of the debris that was found there. He said they took an additional step and purchased an environmental insurance policy. He said they could add Town land to the insurance policy, and they would clean up the dump at no cost to the Town. He said they understood the need for affordable housing and would have no problem meeting the guidelines in the code. He said more effective might be for them to build the affordable housing.

Aderhold introduced Tyler Harpel, their engineer from SGM, a local engineering company located in Gunnison. Harpel said they wanted to distinguish themselves from the last applicant. They had the benefit of looking through the last application. One of the issues they were getting feedback from both directions was maintaining the Town grid system while meshing the features with the topography. He said their development would be on the grid system coming off of existing 7th and 8th Streets, and it would not be a whole bunch of cul de sacs. Harpel said the biggest factors were the wetlands and compatibility with natural features. He said a big natural feature was the river. The FEMA 100 year flood plain was just delineated in 2013, and FEMA's plan was within inches of SGM's plan. On a slide from his presentation, he pointed out the area of the Town landfill. Schmidt asked how much the dump would be lowered. Harpel said in the ballpark it would be lowered about halfway.

Harpel said the big wetlands were: East Wetlands, Cemetery Wetlands, Pond Wetlands along Slate River, and Wetlands D. The biggest differences pertaining to the wetlands started with Road B. The proposed grid plan had Road B with the same spacing as Town grid. With the proposed natural plan, Road B bent down, which would preserve a full 25-foot buffer around the wetlands. The natural plan fit the land topography and did not have the clean feel of a lot line. They would be able to follow the high points and natural drainage topography. Harpel also cited the biggest advantages, which were related to snow plowing and storm water run off. There would be street loaded homes rather than loaded from the alley behind. He said there would be less disturbance. Harpel said the grid plan tried to keep a lot of wetland buffers. They could square up the edges, but they

didn't have a specific 100-foot buffer on everything. The grid plan did allow for more accessory dwelling units, which made them less street loaded. An alley created more disturbance, more storm water run off, but was also the more consistent feel with Town. Harpel said the Town Code was telling them to go both directions. Michel questioned which plan the applicant preferred. Aderhold answered they were trying to create trail connections. Schmidt asked about a walkway to the cemetery. Harpel said they could have a chance to get utilities to the cemetery. Aderhold said the natural plan was their first approach and preference. Harpel said they particularly preferred the natural plan in regards to storm water run off. Citizen Dan Escalante asked if the natural plan was medium density. Harpel answered that how the density flowed throughout the development was about the same, and as they moved out further, it became less dense. Escalante asked if the natural plan could accommodate higher density. Harpel said they were not cutting up lots just yet, but the natural plan didn't mean that it couldn't be denser. Yerman added that attributes for going against the grid plan were when uniform lot styles were created; they could create architectural standards that were uniform. He also said that with the use of the alley, it took away the car as the center of the house. Yerman continued and said it allowed Town to put utilities and better separation of utilities by having an alley. Regardless they would have grading said Yerman. He said the applicants were present to get feedback on both proposals. Due said there would be bulldozing on either one of the proposals. He did not know the difference in bulldozing between the plans, but he didn't think it was a major difference. Harpel estimated about 50 feet of difference. Due did say that alleys kept the water and sewer on the streets. He liked the idea of the grid because of the uniformity of the lots and alleys. Berkshire asked if there was any consideration given to how this annexation integrated with Moon Ridge. Aderhold said the natural plan softened the interface. Michel said the zoning code in the Verzuh provided transition to those lots outside of Town. A citizen, who reported to live on Whiterock Avenue, wondered why they needed to follow the norm. She suggested a car free part of Town. She asked why it had to be the same. She asked why it couldn't be affordable housing. She said to set a different standard. Marcus Lock, attorney for the applicant, said that was what they were trying to talk about tonight. He said they were there to find out how they could make it the best project possible, and they were looking for feedback.

Harpel said that with overall transportation, there were four main access points, including two new ones to connect with Gothic Road and 7th and 8th Streets. Michel wondered if they were looking at improving the intersection at Road B. Harpel said they hadn't yet done a traffic study. Their traffic plan would be integrated with the traffic studies that were already done over the summer. He said the 8th Street connection was really important, and they would be looking at intersections throughout Town. He said it was important to not look at traffic with just this development. Everyone who lived there would have the ability to get on public transit and Town pedestrian infrastructure. They would extend the 8th Street concrete sidewalk and then cross the bridge and back over Gothic Road. They would make sure the bridge could have Nordic grooming equipment cross it. He said critical was junction with the rec path. Harpel said that the feedback on trails had been that people wanted this connection to trails and river access. However, the wetlands were a challenge, which was why the feel for the northern park was a more

natural feel. It was related to water and limiting the amount of irrigation. He added that major wetlands had organic soil and were high quality wetlands. They required a larger buffer of 100 feet, instead of the 25-foot buffer required in lower quality wetlands. He said not to look at a 100-foot buffer or a 25-foot buffer. He said to do what made sense, a variable buffer.

Schmidt asked if the transmission lines for the water were adequate to serve the development. Due said they would have to look into further engineering the lines. Harpel said that would be addressed and would have to be analyzed.

Ladoulis was curious if their plan was to build structures themselves or if it was to sell the lots. He asked if they had a vision of the demographic that would buy on the East versus West side of the river. He asked what they would imagine this community to look like. Aderhold said they were open to exploring alternatives. They couldn't control the market, but he saw the desire for a mix that fit in well with Town. He could understand there might be a need for higher density housing. He said they would be able to work through concerns. Michel supported inclusionary zoning, like in the Verzuh. Escalante said he hoped they kept their minds opened to different options. There were a lot of ways it could look. Or, Escalante suggested, the houses built could be required to be 30% more efficient than code.

Attorney Marcus Lock reported to have been working with Cypress Equities for a couple of years. He said in terms of water and wastewater, the Town might be able to use their dollars. The developer understood that development was required to pay its own way, and they would pay for utility infrastructure. All new residents would be paying water and tap fees, including monthly usage fees. He suggested the revenue stream could pay for enhancement to the Town's water and wastewater. He felt the development's usage would represent about 7% of the wastewater treatment capacity. They were undergoing a performance evaluation, and there might be more capacity than what they thought. He suggested it was possible that Town may hit a point where they wanted to start engineering a new treatment facility. He said the development would help address the shortfall. He said they were currently examining where they could best help. He wondered if Town could use irrigation water rights to water parks and playing fields, therefore freeing up the use of treated water. Lock said the goal was to make it the best project possible for Crested Butte.

Lock continued and said there was a lot of detail they still needed to provide, but they wanted to know what the big issues were. Related to the landfill, the applicant wanted to take a different approach from the prior group. They wanted to take responsibility to clean up Cypress's property and Town's property. Lock said they had an environmental engineer, who had knowledge how to do it safely. In addition, they obtained an environmental insurance policy. They would do it the right way with the right people with adequate safe guards. They would ultimately provide federal and state approval. Remediation work would be monitored, and the remediation report would document all activities. The applicant's goal was to provide documented evidence the old Town dump

had been remediated to federal and state standards, and Town property would largely end up being a park.

Paul Casey, Principal Engineer of Casey Resources, a company that does site remediation was introduced. Casey Resources integrated into big projects, and they were the environmental arms. They consulted and planned. They negotiated with regulators and oversaw to ultimately get state and federal approval under a voluntary program. Casey listed successful projects of his company. He further explained that landfills were heterogeneous, which made them interesting and tough. They contained different waste streams. He mentioned that Gunnison accepted asbestos affected waste that would go under a manifest of general construction waste. Casey said a drum oozing waste required its own characterization. It would be treated as hazardous waste, and a treatment disposal option was incineration. Tiering involved leaving deposits in place and then putting in clean fill. They then raised the grade back up and built the roads to be compliant with the local municipality. Casey said that materials were deposited in trench form in Crested Butte. He described his company as glorified traffic cops who work with excavation contractors to make sure material was characterized properly and was going in the right direction. He described the Crested Butte dump as a bonafide project that had a lot of merit. Michel asked Casey, with the location of the dump right next to residential homes, he wondered how they would mitigate the off gassing. Casey said engineering controls would have to be put in place, such as wind fencing and perimeter air monitoring. He said that dust control and policing the contractor were important. Casey said they would see a lot of water because water was the general savior and elixir of remediation. Casey said the good news about this site was that the ground water was clean. He said the landfill contained mostly general refuse. They have seen some lead and metals. He reported they saw asbestos in two out of 102 sites. Oversight and observation were keys. Schmidt asked how deep they dug. Casey said they excavated to native material, but it varied in depth. Schmidt also wondered if they would do dust control with just water. Casey said other surfactants would be used, dependent upon the contractor. Schmidt asked if they filter or just scoop it up and haul it away. Casey said to differentiate one material from another was more expensive. They may run into pockets of asbestos, for example, that may be loaded on a different truck. Schmidt asked if remediation was a phased or open process. Casey said they normally phase it with the contractor's schedule and integrate with the developer's schedule. Schmidt further wondered what kind of timeline they were talking. Casey said with 26,000 cubic yards of landfill, they could probably move the waste in a couple of months with the right contractor. Schmidt asked how many trucks rumbling down the road he could expect per day. Casey estimated five trucks, with two or three round trips per day, which would be about twenty truckloads. Schmidt asked if the Town could determine the timeline of the hauling. Casey said they often work with towns. Huckstep said he was grateful there was no impact to the ground water, but he voiced concern that the excavation could affect the groundwater. Casey said there were varying degrees of groundwater. The landfill has been there since the 70s, and it wouldn't be affected. He said clay was wonderful barrier. In addition, he said that asbestos was not mobile in soils. They did not find volatile organic compounds; they only found semi volatile compounds, which were less mobile.

Lock expounded and said the waste characterization of the dump was subject to the confidentiality agreement between Cypress Equities and the bank. He anticipated having it shortly. He said they wanted the development to be something they could be proud of. They wanted to do it right, in a cooperative partnership. Lock said there would be new parks, clean up of the dump, affordable housing, trails, and he hoped this would be the first step in the process. Huckstep asked Lock what his idea was for a timeline. Lock said if the concept annexation became too lengthy it would be problematic from the legal perspective. He said its purpose was an informal response about the general elements of the plan. He asked to get the deal breakers on the table. Schmidt said the question that loomed on his mind was if they couldn't come to an agreement, what happened to the dump. Lock said the whole goal was the fight related to liability. He said the dump cleaned up is better than the dump just standing there. Town would have to deal with it at some point. Lock said they should figure out a way to take the dump out of the discussion. Huckstep asked Lock if the characterization study was on applicant's property and not on Town's property. Aderhold answered that the prior applicant completed Phase 1 and Phase 2, which was a part of the environmental insurance policy. He said Town could be incorporated into the insurance policy. Ladoulis asked what the term of the policy was. Aderhold said it was a five-year term.

The Council discussed how to handle the process moving forward. Yerman suggested continuing to a date certain. Berkshire asked to see a schedule for the annexation process. Schmidt said he had major problems with some issues he had seen. Berkshire felt it was in their best interest to set out deliberate steps while taking it to conclusion. Belkin suggested they finish this meeting and see where they were on feedback.

Schmidt moved and Mason seconded a motion to continue the annexation agenda item to December 15, 2014. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

7) Discussion and Possible Action Regarding Engagement Agreement with Town Water Counsel Scott Miller with the Law Firm of Patrick, Miller, Kropf & Noto, PC.

Huckstep confirmed that Belkin's recommendation still held. Schmidt asked about billing rates and wondered if they billed per hour for driving time. Belkin didn't think they would be travelling to Crested Butte.

Matusiewicz moved and Mason seconded a motion to authorize the Mayor to execute the engagement letter for Patrick, Miller, Kropf & Noto, PC, for the Town's use of Scott and his firm as special counsel advising the Town on water matters, both general and specific, under the direction of the Town Attorney. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

LEGAL MATTERS

None

COUNCIL REPORTS AND COMMITTEE UPDATES

Aaron Huckstep

- Welcomed Berkshire to the Council.
- Mentioned the mayor/manager's meeting on Thursday.
- RTA has a board meeting December 12.

Roland Mason

- Drivers for Mountain Express have requested police presence at Old Town Hall, including riding along the loop. They would especially appreciate a marshal's presence on later busses and during special events.

OTHER BUSINESS TO COME BEFORE THE COUNCIL

Huckstep referred to an email from Jake Jones. Avalanche Awareness Night was granted a \$750 award from the Town, and the location of the event had changed from Crested Butte to Mt. Crested Butte. The Council had no concerns.

Huckstep asked the Council to provide him with their manager review forms. The review is being held on December 17.

Schmidt reminded everyone of the Whatever USA meeting on Wednesday at 6PM.

DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE


- Monday, December 15, 2014 – 6:00PM Work Session – 7:00PM Regular Council
- Wednesday, December 17, 2014 – Council Retreat
- Monday, January 5, 2015 – 6:00PM Work Session – 7:00PM Regular Council

ADJOURNMENT

Mayor Huckstep adjourned the meeting at 12:43AM.



Aaron J. Huckstep, Mayor



Lynelle Stanford, Town Clerk

(SEAL)

